

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

KIRK JOHNSON   §  
VS.   §      CIVIL ACTION NO. 1:05cv859  
RUDY CHILDRESS   §

MEMORANDUM ORDER ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Kirk Johnson, proceeding *pro se*, filed this petition for writ of habeas corpus.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

Petitioner has filed a motion to proceed *in forma pauperis*. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion. The magistrate judge recommends the motion be denied and petitioner directed to pay the \$5 filing fee.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. No objections were filed to the Report and Recommendation.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. Petitioner's motion to proceed *in forma pauperis*

is **DENIED**. Petitioner shall, within 20 days of receipt of this Memorandum Order, submit the \$5 filing fee to the court. Failure to comply with this order may result in dismissal of this action for want of prosecution.

So **ORDERED** and **SIGNED** this **10** day of **February, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge